

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

JOSEPH LONNELL LEWIS, )  
                            )  
                            )  
Plaintiff,               )  
                            )  
                            )  
v.                         )                  Case No. CIV-10-1343-M  
                            )  
                            )  
HASKELL HIGGINS, *et al.*, )  
                            )  
                            )  
Defendants.              )

**ORDER**

On August 4, 2011, the United States Magistrate Judge Robert E. Bacharach issued a Report and Recommendation in this action brought pursuant to 42 U.S.C. § 1983. The Magistrate Judge recommended that this Court conclude that: (1) defendants Department of Corrections, Higgins, Gilstrap, Hill, Hembree, Johnson, Wilks, Reading, Morton, Sanders, Tustin, Doyle, Jones, and Ingle are entitled to Eleventh Amendment immunity on plaintiff's official capacity claims for monetary damages; and (2) said moving defendants also are entitled to summary judgment based on plaintiff's failure to exhaust administrative remedies. Plaintiff was advised of his right to object to the Report and Recommendation by August 22, 2011.

On August 22, 2011, plaintiff filed his Motion for Enlargement of Time. The Court granted plaintiff's motion and ordered him to file an objection on or before September 21, 2011. To date, neither parties has filed an objection.

Having carefully reviewed this matter de novo, the Court:

- (1)     ADOPTS the Report and Recommendation issued by the Magistrate Judge on August 4, 2011; and
- (2)     GRANTS defendants Department of Corrections, Higgins, Gilstrap, Hill, Hembree, Johnson, Wilks, Reading, Morton, Sanders, Tustin, Doyle, Jones, and Ingle's Motion for Summary Judgment [docket no. 37] on the grounds of Eleventh Amendment

immunity on plaintiff's official capacity claims for monetary damages and plaintiff's failure to exhaust administrative remedies.

**IT IS SO ORDERED this 28<sup>th</sup> day of September, 2011.**



VICKI MILES-LAGRANGE  
CHIEF UNITED STATES DISTRICT JUDGE